

# Senate Study Bill 1185

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON FRAISE)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to separation distance requirements between  
2 confinement feeding operations or manure originating from such  
3 places, and certain objects or locations, and making penalties  
4 applicable.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 2117XC 82  
7 da/je/5

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1 1 Section 1. Section 459.205, subsection 4, Code 2007, is  
1 2 amended to read as follows:  
1 3 4. The application of liquid manure on land within a  
1 4 separation distance required between the applied manure and an  
1 5 object or location for which separation is required under  
1 6 section 459.204, if any of the following apply:  
1 7 a. The titleholder of the land benefiting from the  
~~1 8 separation distance requirement executes a written waiver with~~  
~~1 9 the titleholder of the land where the manure is applied.~~  
1 10 b. The liquid manure is not applied within two hundred  
~~1 11 fifty feet from an object or location benefiting from the~~  
~~1 12 separation distance requirement, and any of the following~~  
~~1 13 applies:~~  
1 14 (1) The liquid manure is injected into the soil or  
1 15 incorporated within the soil not later than twenty-four hours  
1 16 from the original application, as provided by rules adopted by  
1 17 the commission.  
1 18 b. ~~The titleholder of the land benefiting from the~~  
~~1 19 separation distance requirement executes a written waiver with~~  
~~1 20 the titleholder of the land where the manure is applied.~~  
1 21 c. ~~The liquid manure originates from a small animal~~  
~~1 22 feeding operation.~~  
1 23 d. (2) The liquid manure is applied by spray irrigation  
1 24 equipment using a center pivot mechanism as provided by rules  
1 25 adopted by the department, if all of the following apply:  
1 26 (1) (a) The spray irrigation equipment uses hoses which  
1 27 discharge the liquid manure in a downward direction at a  
1 28 height of not more than nine feet above the soil.  
1 29 (2) (b) The spray irrigation equipment disperses manure  
1 30 through an orifice at a maximum pressure of not more than  
1 31 twenty-five pounds per square inch.  
1 32 (3) ~~The liquid manure is not applied within two hundred~~  
~~1 33 fifty feet from a residence not owned by the titleholder of~~  
~~1 34 the land, a commercial enterprise, a bona fide religious~~  
~~1 35 institution, an educational institution, or a public use area.~~  
2 1 Sec. 2. Section 459.310, subsection 1, paragraphs a, b,  
2 2 and c, Code 2007, are amended to read as follows:  
2 3 a. A confinement feeding operation structure shall not be  
2 4 constructed closer than ~~five hundred two thousand six hundred~~  
~~2 5 forty feet~~ away from the surface intake of an agricultural  
2 6 drainage well. A confinement feeding operation structure  
2 7 shall not be constructed closer than ~~one thousand three~~  
~~2 8 thousand nine hundred sixty~~ feet from a wellhead, cistern of  
2 9 an agricultural drainage well, or known sinkhole. However,  
2 10 the department may adopt rules requiring an increased  
2 11 separation distance under this paragraph in order to protect  
2 12 the integrity of a water of the state. ~~The increased~~  
~~2 13 separation distance shall not be more than two thousand feet.~~  
2 14 If the department exercises its discretion to increase the  
2 15 separation distance requirement, the department shall not  
2 16 approve an application for the construction of a confinement

2 17 feeding operation structure within that separation distance as  
2 18 provided in section 459.303.  
2 19 b. A confinement feeding operation structure shall not be  
2 20 constructed if the confinement feeding operation structure as  
2 21 constructed is closer than any of the following:

2 22 (1) ~~Five One thousand three hundred twenty~~ feet away from  
2 23 a water source other than a major water source.

2 24 (2) ~~One Three thousand nine hundred sixty~~ feet away from a  
2 25 major water source.

2 26 (3) ~~Two thousand five hundred feet away~~ A distance  
2 27 established by departmental rule from a designated wetland.

2 28 ~~In adopting the rules, the department shall consult with the~~  
2 29 ~~soil conservation division of the department of agriculture~~  
2 30 ~~and land stewardship established in section 161A.4.~~

2 31 c. (1) A water source, other than a major water source,  
2 32 shall not be constructed, expanded, or diverted, if the water  
2 33 source as constructed, expanded, or diverted is closer than  
2 34 ~~five one thousand three hundred twenty~~ feet away from a  
2 35 confinement feeding operation structure.

3 1 (2) A major water source shall not be constructed,  
3 2 expanded, or diverted, if the major water source as  
3 3 constructed, expanded, or diverted is closer than ~~one three~~  
3 4 ~~thousand nine hundred sixty~~ feet from a confinement feeding  
3 5 operation structure.

3 6 (3) A designated wetland shall not be established, if the  
3 7 designated wetland is closer than ~~two thousand five hundred~~  
3 8 ~~feet away from a confinement feeding operation structure the~~

3 9 ~~separation distance required by departmental rule for the~~  
3 10 ~~construction of a confinement feeding operation structure from~~  
3 11 ~~an established designated wetland, as provided in paragraph~~

3 12 "b".

#### 3 13 EXPLANATION

3 14 BACKGROUND. This bill amends provisions in Code chapter  
3 15 459, regulating animal feeding operations by the department of  
3 16 natural resources, including confinement feeding operations  
3 17 and their associated structures (confinement buildings, manure  
3 18 storage structures, and egg washwater storage structures).  
3 19 The Code chapter regulates both the application of manure  
3 20 originating from a confinement feeding operation and the  
3 21 construction of confinement feeding operations. It includes  
3 22 provisions regulating air and water quality.

3 23 AIR QUALITY. Code section 459.204 provides that a person  
3 24 cannot apply liquid manure originating from a confinement  
3 25 feeding operation on land located within 750 feet from a  
3 26 residence not owned by the titleholder of the land, a  
3 27 commercial enterprise, a bona fide religious institution, an  
3 28 educational institution, or a public use area (a benefited  
3 29 object or location).

3 30 Code section 459.205 provides a number of exceptions to the  
3 31 separation distance requirements including when: (1) the  
3 32 titleholder of the land benefiting from the separation  
3 33 distance executes a waiver; (2) the liquid manure is injected  
3 34 into the soil or incorporated within the soil within 24 hours,  
3 35 (3) the liquid manure originates from a small animal feeding  
4 1 operation; or (4) the liquid manure is applied by spray  
4 2 irrigation but not within 250 feet from the benefited object  
4 3 or location. The bill retains the waiver exemption,  
4 4 eliminates the exemption for manure originating from a small  
4 5 animal feeding operation, and provides that liquid manure  
4 6 which is injected or incorporated must not be applied within  
4 7 250 feet from the object or location benefiting from the  
4 8 separation distance requirement.

4 9 WATER QUALITY. Code section 459.310 provides that a  
4 10 confinement feeding operation structure cannot be constructed  
4 11 closer than a specific distance from the opening to subsurface  
4 12 water (i.e., the surface intake of an agricultural drainage  
4 13 well or a wellhead, cistern of an agricultural drainage well,  
4 14 or known sinkhole) and also from areas where surface water is  
4 15 present (a wetland designated by the federal or state  
4 16 government; a water source such as a lake, river, reservoir,  
4 17 creek, or stream; or a major water source capable of  
4 18 supporting a floating vessel during a total of a six-month  
4 19 period in 10 years). The Code section provides that the same  
4 20 distance requirements that apply to the construction of a  
4 21 confinement feeding operation in proximity to an area where  
4 22 surface water is present also apply to the establishment of an  
4 23 area of surface water in proximity to an existing confinement  
4 24 feeding operation structure.

4 25 The bill increases the separation distances applicable to  
4 26 openings to subsurface water as follows: (1) for the surface  
4 27 intake of an agricultural drainage well an increase from 500

4 28 feet (with departmental discretion to increase the separation  
4 29 distance requirements to 2,000 feet) to 2,640 feet (one-half  
4 30 mile); and (2) for a wellhead, cistern of an agricultural  
4 31 drainage well, or known sinkhole an increase from 1,000 feet  
4 32 (with departmental discretion to increase the separation  
4 33 distance requirements to 2,000 feet) to 3,960 feet  
4 34 (three-quarters of a mile). The bill increases the separation  
4 35 distances applicable to areas where surface water is present  
5 1 as follows: (1) for a water source other than a major water  
5 2 source an increase from 500 feet to 1,320 feet (one-quarter  
5 3 mile); (2) for a major water source an increase from 1,000  
5 4 feet to 3,960 feet (three-quarters of a mile); and (3) from a  
5 5 designated wetland from 2,500 feet to a distance established  
5 6 by departmental rule in consultation with the division of soil  
5 7 conservation of the department of agriculture and land  
5 8 stewardship. These increased separation distances apply to  
5 9 both construction of confinement feeding operation structures  
5 10 and the establishment of water sources and designated  
5 11 wetlands.  
5 12 PENALTIES. According to Code section 459.602, a person who  
5 13 violates provisions relating to air quality are subject to a  
5 14 civil penalty as provided in Code section 455B.109 which  
5 15 authorizes the environmental protection commission to  
5 16 establish penalty amounts according to a schedule not to  
5 17 exceed \$10,000. According to Code section 459.603, a person  
5 18 who violates a provision relating to water quality is subject  
5 19 to penalties as provided in Code section 455B.191 which  
5 20 includes a judicially assessed civil penalty of up to \$5,000.  
5 21 LSB 2117XC 82  
5 22 da:rj/je/5